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January 16, 2001

**VIA HAND DELIVERY**

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

**Re: Petition of the Tennessee Small Local Exchange Company Coalition for  
Temporary Suspension of 47 U.S.C. § 251(b) and § 251(c) Pursuant to  
47 U.S.C. § 251(f) and 47 U.S.C. § 253(b).  
Docket No. 99-00613**

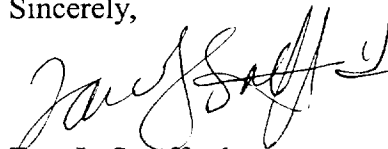
Dear Mr. Waddell:

Enclosed is the original and 13 copies of:

1. Petitioner's Motion to File Supplemental Brief Regarding Hearing Date and
2. Petitioner's Supplemental Brief Regarding Hearing Date.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to call me.

Sincerely,



Tara L. Swafford

TLS/ljs  
Enclosure

cc: Richard Collier, Esq. (w/encls.)  
Henry M. Walker, Esq. (w/encls.)  
Kemal M. Hawa, Esq. (w/encls.)  
Mr. Bruce Mottern (w/encls.)

#2168196

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

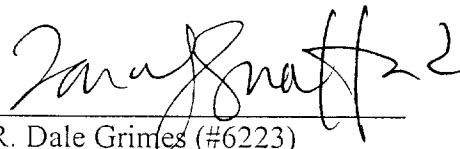
IN RE:

PETITION OF THE TENNESSEE SMALL LOCAL	)	
EXCHANGE COMPANY COALITION FOR	)	
TEMPORARY SUSPENSION OF 47 U.S.C. §	)	DOCKET NO. 99-00613
251(b) AND 251(c) PURSUANT TO 47 U.S.C. §	)	
251(f) AND 47 U.S.C. § 253(b).	)	

PETITIONER'S MOTION TO FILE  
SUPPLEMENTAL BRIEF REGARDING HEARING DATE

Petitioner, the Tennessee Small Local Exchange Company Coalition, hereby moves the Authority for permission to submit its contemporaneously-filed Supplemental Brief Regarding Hearing Date. The Supplemental Brief is necessary to respond to the new position taken by the intervenors in the Reply of US LEC of Tennessee, Hyperion of Tennessee, L.P., and the Southeastern Competitive Carriers Association to Petitioner's Request to Defer Hearing Until Conclusion of Docket No. 00-00537. For this reason, Petitioner requests that the Authority consider Petitioner's Supplemental Brief Regarding Hearing Date.

Respectfully submitted,



R. Dale Grimes (#6223)

T. G. Pappas (#2703)

Tara L. Swafford (#17577)

BASS, BERRY & SIMS PLC

315 Deaderick Street, Suite 2700

Nashville, Tennessee 37238-0002

(615) 742-6200

*Counsel for The Tennessee Small*

*Local Exchange Company Coalition*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing was served on the following counsel of record, via the method checked, on January 16, 2001:

Henry M. Walker  
Boult, Cummings, Conners & Berry  
414 Union Street, #1600  
Nashville, TN 37219

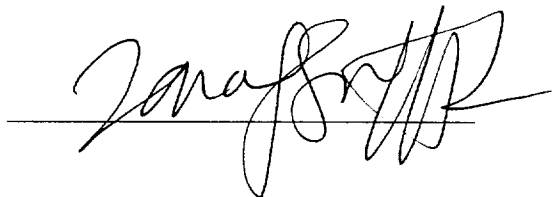
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A handwritten signature in cursive script, appearing to read "Zana Smith", is written over a horizontal line.

SWAFFORDTL/ 2168438

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

<b>PETITION OF THE TENNESSEE SMALL LOCAL</b>	<b>)</b>	
<b>EXCHANGE COMPANY COALITION FOR</b>	<b>)</b>	
<b>TEMPORARY SUSPENSION OF 47 U.S.C. §</b>	<b>)</b>	<b>DOCKET NO. 99-00613</b>
<b>251(b) AND 251(c) PURSUANT TO 47 U.S.C. §</b>	<b>)</b>	
<b>251(f) AND 47 U.S.C. § 253(b).</b>	<b>)</b>	

**PETITIONER'S SUPPLEMENTAL BRIEF  
REGARDING HEARING DATE**

Petitioner, the Tennessee Small Local Exchange Company Coalition, submits this Supplemental Brief regarding the hearing date in this matter and in response to the Reply of US LEC of Tennessee, Hyperion of Tennessee, L.P., and the Southeastern Competitive Carriers Association to Petitioner's Request to Defer Hearing Until Conclusion of Docket No. 00-00537 (the "Reply").

In their Reply, the intervenors object to holding the hearing in this case in abeyance until after the conclusion of the Universal Service for Rural Areas - Generic Docket, Docket No. 00-00537 (the "Rural Universal Service Docket"). Counsel for intervenors, however, agreed to doing just that at the Status Conference before the Pre-Hearing Officer on December 14, 2000, so long as US LEC's request for interconnection with the TDS Telecom Companies is allowed to proceed. (See 12/14/00 Hearing Transcript, pp. 12-14, 18-19.) The intervenors have apparently now changed that position and are trying to revert to the previously-waived statutory 120 day provision for consideration of interconnection requests under § 251(f)(1) to force the Authority to proceed to hearing this case and the US LEC interconnection request, rather than taking the more prudent course of resolving the underlying issues in both cases through the Rural Universal Service Docket. Petitioner objects to this tactic and has four brief points to raise.

First, the insistence of the intervenors that a hearing be held in this case prior to the conclusion of the Rural Universal Service Docket will waste the resources of the Authority by forcing it to consider these cases simultaneously. It also will exhaust the limited resources of the Petitioner by forcing it to divide efforts and attention between these important cases. This is especially frustrating when one considers that the ultimate outcome of the Rural Universal Service Docket will significantly clarify the issues of this case by reducing the substantial uncertainty currently existing in Tennessee over state universal service issues.

Second, US LEC cannot now use the 120 day provision to force a hearing when it previously waived that provision and agreed to suspend its interconnection request until the conclusion of the current matter.<sup>1</sup> Petitioner has likewise waived the right to a resolution of its Petition within 180 days as provided by § 251(f)(2). As US LEC acknowledged in its Reply, it would potentially be

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<sup>1</sup>US LEC's waiver of the 120 day provision has been recorded in the Second Report and Recommendation of Pre-Hearing Officer in this matter. The Second Report states,

During the Pre-Hearing Conference on March 17, 2000, the parties discussed the extent to which a decision on the petition in this case would govern a decision on US LEC's request for interconnection in Docket No. 00-00026. The parties agreed that a decision in this case resulting in a suspension of the requirements for interconnection set forth [in] Section 252 of the Act would act as a suspension of US LEC's request. During this discussion, counsel for US LEC stated that a determination of the Coalition's petition in this docket would likely determine whether or not US LEC would proceed with its bona fide request in Docket No. 00-00026. Accordingly, counsel for US LEC stated that he would agree to waive the requirement set forth in Section 251(f)(1)(B) of the Act that the Authority act within 120 days after receipt of notice of US LEC's request. While the parties agreed that not all issues to be determined in this proceeding and the Docket No. 00-00026 proceeding are the same, certain issues specifically related to those companies with whom US LEC is seeking to interconnect could be resolved in this proceeding, prior to a hearing on the US LEC request.

(Second Report of Pre-Hearing Officer, 3/23/00, pp. 7-8.)

futile to determine the US LEC interconnection request without first determining the issues in this matter because the outcome of this matter could moot the US LEC request. It would be anomalous to address the US LEC interconnection request when this docket seeks to suspend that very type of request and is proceeding pursuant to a statute designed for that specific purpose. Waiting for a decision in the Rural Universal Service Docket will only hasten the resolution of both the current matter and the US LEC request.

Third, it is incorrect to argue that if the Authority held this docket and the US LEC interconnection request in abeyance until the resolution of the Rural Universal Service Docket, Petitioner would in effect receive the relief requested in its Petition. The Petition does not request delay of the status quo; it requests a suspension or modification of certain competitive obligations until the FCC or the Authority have acted to protect consumers served by rural LEC's in ways contemplated by Congress. Obviously, this relief may take different forms depending on the outcome of many matters – not just state universal service. Although the resolution of state universal service issues would clarify a substantial portion of the issues raised in the Petition, it will not resolve universal service issues at the federal level, access charge restructuring, jurisdictional separations changes, or several other regulatory matters.

Finally, it is completely within the control of the Authority to determine how soon a decision is rendered in the Rural Universal Service Docket. The parties to that docket have submitted their testimony, and the Authority can proceed expeditiously with singular purpose if it addresses the Rural Universal Service Docket before confronting the issues in this matter.<sup>2</sup> In fact, by focusing

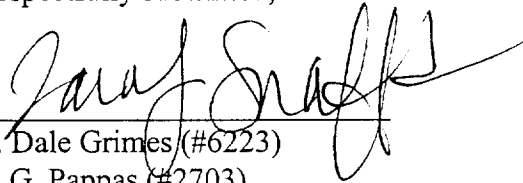
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<sup>2</sup>Indeed, the Authority should proceed swiftly to resolve the issues in the Rural Universal Service Docket as the need for quick resolution has intensified in the wake of the last week's final decision by the FCC in In the Matter of AVR, L.P. d/b/a Hyperion of Tennessee, L.P., CC Docket

its attention on the Rural Universal Service Docket, the Authority should proceed more quickly and with greater clarity and less waste of resources for all involved.

For these reasons and the reasons contained in the initial brief submitted by the Petitioner regarding the hearing date, the Authority should hold both this case and the US LEC interconnection request in abeyance until the conclusion of the Rural Universal Service Docket.

Respectfully submitted,



R. Dale Grimes (#6223)

T. G. Pappas (#2703)

Tara L. Swafford (#17577)

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*Counsel for The Tennessee Small*

*Local Exchange Company Coalition*

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No. 98-92, which effectively allows unregulated facilities-based competition in rural service areas despite the fact that the Authority has not had the opportunity to safeguard the rights of consumers and the rural carriers through state universal service reform, the very issues presented in the Rural Universal Service Docket.

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I hereby certify that a true and exact copy of the foregoing was served on the following counsel of record, via the method checked, on January 16 2001:

Henry M. Walker  
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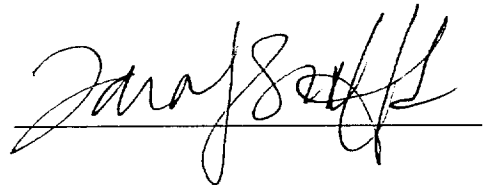
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☒ First Class Mail  
☐ Facsimile

A handwritten signature in black ink, appearing to read "Zana Shereff", is written over a horizontal line.

SWAFFORDTL/ 2168189